

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.Rev.Pet.No. 643 of 2000()

CRA.139/1997 of ADDL. SESSIONS COURT, ALAPPUZHA
CC.650/1994 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHERTHALA
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REVN. PETITIONER:

PONNAPPAN, S/O. THANKAPPAN,
POKKALAYIL VEEDU,
WARD NO.4,
ARYAD PANCHAYAT,
KOMALAPURAM VILLAGE.

BY ADV. SRI.P.G.THAMPI
SRI.S.SANAL KUMAR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL.M.P.NO.3572/2000 IN CRL.R.P.NO.643/2000

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

27/09/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.643 of 2000
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Dated this the 27th day of September, 2007

O R D E R

The revision petitioner, who is a K.S.R.T.C driver, stands convicted for the offences under Sections 279, 337 and 338 I.P.C and sentenced to undergo simple imprisonment for three months for the offence under Section 279 I.P.C and to undergo simple imprisonment for three months for the offence under Section 337 I.P.C and to undergo simple imprisonment for six months for the offence under Section 338 I.P.C with a direction that the sentences shall run concurrently. The driving licence was suspended for six months.

2. The prosecution case is that on 09/09/1994 at about 6.50 a.m the accused drove KLX 6005 K.S.R.T.C bus in a rash and negligent manner so as to endanger human life through Thanneerkmukkom-Alappuzha public road from south to north and caused to hit on KLY 5227 'Suramya' bus which was coming down from the bridge; that a number of passengers sustained injuries and PW.25 sustained fracture of both forearms.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 35 and Exts.P1 to P9. It was found by both the courts below that the accident was occasioned on account of the rash and negligent driving of the accused/revision petitioner. It is evident from the scene mahazar, that is, Ext.P2 that the bridge had only a width of '4' metres and it would not be possible for two buses to pass through the bridge at the same time. Suramya bus had covered the bridge and was coming down the slope and was about to come out of the bridge when the revision petitioner/accused took the bus into the bridge. After hitting Suramya bus the K.S.R.T.C bus also hit on PW.27 cyclist who also sustained injuries. There were no mechanical defects to both the vehicles as has been established from Exts.P8 and P9 A.M.V.I report of the vehicles and the testimony of PW.35 the A.M.V.I. The injuries sustained by PW.25, a lady, is proved by PW.33 the Medical Officer, the doctor. In the circumstances, I find that the contention of the counsel for the revision petitioner that the K.S.R.T.C bus was on its right side has no relevance. The conviction is confirmed.

4. The counsel for the revision petitioner has pleaded for leniency so far as the sentence is concerned pointing out that about 13 years have elapsed since the commencement of the proceedings and so far the accused/revision petitioner has been facing the ordeal of the criminal proceedings. In the circumstances, the sentence is liable to be modified. Hence, the sentence imposed for the offence under Section 338 I.P.C is modified to imprisonment till the rising of the court and to pay a compensation of Rs.18,000/- to PW.25 Devaki and in default to undergo simple imprisonment for three months. The revision petitioner is granted two months time to remit the amount of compensation. He shall appear before the Judicial Magistrate of the First Class-II, Cherthala, on 18/12/2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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Crl.R.P.No.643/2000

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K.R.UDAYABHANU, J.

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Crl.R.P.No.643 of 2000
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O R D E R

27th September, 2007